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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,587	07/21/2003	Takeharu Muramatsu	1254-0231P	4699
2292	7590	02/01/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			KIM, AHSHIK	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 02/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/622,587	Applicant(s) MURAMATSU, TAKEHARU	
	Examiner Ahshik Kim	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/08/04 (Preliminary Amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/10/04 + 12/18/03 + 12/3/03 + 7/21/03</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Priority

- 5 1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Amendment

2. Receipt is acknowledged of the first and second preliminary amendments filed on July
10 21, 2003 and July 8, 2004 respectively. In the second amendment, claims 1-4, 9-11, and 13-17 were amended; and claims 18 and 19 were newly added. Currently, claims 1-19 remain for examination.

Claim Objections

- 15 3. Claim 19 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Re claim 19, although the claim refines “the portable terminal” as a “portable information
20 terminal” it is the Examiner’s view that claim 19 does not further limit the parent claim 1. Reading claim 1, the terminal possesses, among other things, photo taking means, display means, and code recognition means. Such a terminal is an “information terminal”, in the Examiner’s view.

Applicant is respectfully suggested to review claim 19, and amend or cancel it if desired.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

5 A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5-8, 10, and 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated
10 by Sakaegi (US 6,040,856, hereinafter “Sakaegi”).

Re claims 1, 10 16, 17, and 19, Sakaegi teaches a portable terminal device functioning both photography and character recognition functions (see abstract; col. 1, lines 38-60). The terminal device is comprised of an image pickup device such as CCD (col. 2, lines 16+), a display means 13 and a console unit 14 for the users to enter operating instructions. As shown in
15 figure 3, the photography mode or code recognition mode can be set by the users (col. 2, lines 39+). PC or other external device can also be used in setting the operation mode. Once the captured image is determined to be a bar code (or other optical characters), steps 419- 422 in figure 7A are performed, and the coded information would be recognized/decoded (col. 3, lines 58-64).

20 Re claim 2, the device allows various operation parameters (see figure 4) including barcode types (col. 3, lines 49-65), and depending on the barcode types, the processing of the captured image would be done differently (col. 3, lines 39-52). The parameter further includes a number of pixels for a code, an area of image to be captured.

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Re claims 3, 15, and 18, in addition to processing the barcode, the captured image can also be recorded as video information (col. 3, lines 57-64).

Re claims 5 and 6, although not explicitly suggested, the camera contains built-in flash or means to adopt an external flash for added illumination. Exposure time control

Re claims 7 and 8, the captured image goes through converting process such as pattern matching and recognition (col. 4, lines 36-39). These processes almost inherently contain error control means and notification means to indicate that decoding process has either succeeded or failed.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4, 9, and 11-14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakaegi (US 6,040,856) in view of Bunte et al. (US 5,821,523, hereinafter "Bunte"). The teachings of Sakaegi have been discussed above.

Although Sakaegi's terminal is embodied by an electronic camera (col. 1, lines 24+) Sakaegi fails to specifically teach or fairly suggest that the device uses a high frame rate.

Bunte teaches a portable terminal capable of both capturing photo images and coded images (see abstract; col. 1, lines 42+). The devices works in various modes such as a single image capture mode (col. 6, lines 15+) or modified single image capture mode, which captures

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the image in regular intervals. The device notifies the users detection and capture of the image so that users may further direct the processing of the captured image (col. 3, lines 26+). The display provides a viewfinder for users to align the target (col. 5, lines 25+). As show in one embodiment (see figure 5b), the display can be at the back of the housing (col. 12, lines 13+).

5 In view of Bunte's teaching, it would have been obvious to an ordinary skill in the art at the time the invention was made to employ well-known camera functionality to the teachings of Sakaegi in order to capture the image of a moving target if desired. As one ordinary skill in the art can expect, Sakaegi's terminal perhaps is equipped with major functionalities of the camera including lighting, auto/manual focusing exposure and frame control, etc. etc. If not, one
10 ordinary skill in the art would contemplate adopting such well-known functionalities to Sakaegi's terminal.

Conclusion

15 I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Yamaguchi et al. (US 2003/0198383 A1); Shizukuishi (US 2002/0176711 A1); Swartz et al. (US 5,923,735); Callaghan et al. (US 6,058,304); Yamazaki (US 6,807,294) disclose a terminal including barcode scanner and camera. Applicant is respectfully suggested to carefully review these references.

20 II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (571)272-2393. The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
25 supervisor, Michael G. Lee, can be reached on (571)272-2398. The fax number directly to the Examiner is (571)273-2393. The fax phone number for this Group is (703)872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

30 *All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that*

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sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

5 Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Ahshik Kim
Patent Examiner
Art Unit 2876
January 26, 2005

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